

House File 2116 - Introduced

HOUSE FILE 2116

BY PETTENGILL

A BILL FOR

1 An Act prohibiting the disclosure of personal information
2 except under specified circumstances and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 715D.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Governmental agency" means the same as defined in
5 section 28J.1.

6 2. "Person or entity" means any individual; business
7 entity; nonprofit organization; governmental agency; health
8 care office, network, or organization; employer; pharmacist;
9 religious organization; or any other individual or entity which
10 is in possession of another individual's personal information.

11 3. "Personal information" means the same as defined
12 in section 715C.1. In addition, "personal information"
13 includes any health or prescription-related information not
14 otherwise protected from or subject to disclosure pursuant to
15 state or federal law contained in an individual's medical,
16 pharmaceutical, or insurance-related information, applications,
17 or records; and any work-related information including but not
18 limited to an employees salary level and information contained
19 in an employee's personnel file. "Personal information" does
20 not include information that is lawfully obtained from publicly
21 available sources, or from federal, state, or local government
22 records lawfully made available to the general public.

23 Sec. 2. NEW SECTION. 715D.2 Personal information —
24 disclosure limitations.

25 Subject to the exceptions contained in section 715D.3,
26 a person or entity shall not voluntarily or intentionally
27 disclose an individual's personal information without
28 informing the individual of the intent to disclose the
29 personal information, identifying the intended recipient of
30 the information, indicating how the disclosed information is
31 intended to be used, and obtaining the individual's written
32 consent to the disclosure.

33 Sec. 3. NEW SECTION. 715D.3 Exceptions.

34 The disclosure limitations specified in section 715D.2 shall
35 not be applicable to the following:

1 1. Elective participation in the Iowa health information
2 network established pursuant to section 135.155A.

3 2. Disclosure of personal information which is subject to
4 any provision of state or federal law which either supersedes
5 or is more restrictive than the provisions of section 715D.2.

6 3. The breach of security provisions of chapter 715C.

7 4. Disclosure in response to a subpoena or court order
8 issued pursuant to a civil or criminal investigation or
9 proceeding.

10 Sec. 4. NEW SECTION. 715D.4 Rulemaking.

11 The attorney general shall adopt rules to administer and
12 interpret this chapter.

13 Sec. 5. NEW SECTION. 715D.5 Unauthorized disclosure —
14 penalties.

15 1. In the event of a disclosure of personal information
16 in violation of this chapter, a person or entity shall notify
17 the individual whose personal information was disclosed that
18 the disclosure has occurred by certified mail return receipt
19 requested within ten business days of the date the disclosure
20 occurred. The notification shall identify, to the extent able
21 to be determined, the person to whom the disclosure was made.

22 2. The person or entity shall be responsible for full
23 restitution to an individual whose personal information was
24 disclosed in violation of this chapter for any losses incurred
25 resulting from the disclosure.

26 3. A violation of this chapter is punishable by a civil
27 penalty not to exceed five thousand dollars.

28 Sec. 6. HEALTHCARE.GOV — DATA SECURITY STANDARDS AND
29 PRACTICES. The attorney general shall coordinate with
30 the department of public health, the department of human
31 services, and the office of the chief information officer to
32 determine whether and to what extent personal information
33 disclosure requirements and safeguards developed by the
34 centers for Medicare and Medicaid services of the United
35 States department of health and human services in connection

1 with the healthcare.gov internet site afford the citizens
2 of this state adequate personal information safeguards and
3 protection and reflect best practices for data security. Based
4 on this determination, the attorney general shall develop
5 recommendations and guidelines containing suggestions for
6 utilizing the internet site and areas of concern identified
7 concerning personal information data security by October 1,
8 2014.

9

EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill prohibits the disclosure of personal information
13 except under specified circumstances.

14 The bill provides several definitions. The bill defines a
15 "person or entity" to mean any individual; business entity;
16 nonprofit organization; governmental agency; health care
17 office, network, or organization; employer; pharmacist;
18 religious organization; or any other individual or entity which
19 is in possession of another individual's personal information.

20 The bill defines "personal information" to mean the same
21 as defined in Code section 715C.1. That Code section defines
22 "personal information" as an individual's first name or
23 first initial and last name in combination with any one or
24 more data elements that relate to the individual if any of
25 the data elements are not encrypted, redacted, or otherwise
26 altered by any method or technology in such a manner that
27 the name or data elements are unreadable. The data elements
28 include a social security number; driver's license number or
29 other unique identification number created or collected by a
30 government body; financial account number, credit card number,
31 or debit card number in combination with any required security
32 code, access code, or password that would permit access to an
33 individual's financial account; unique electronic identifier
34 or routing code in combination with any required security
35 code, access code, or password that would permit access

1 to an individual's financial account; and unique biometric
2 data, such as a fingerprint, retina or iris image, or other
3 unique physical representation or digital representation of
4 biometric data. In addition, the bill provides that "personal
5 information" includes any health or prescription-related
6 information not otherwise protected from or subject to
7 disclosure pursuant to state or federal law contained in an
8 individual's medical, pharmaceutical, or insurance-related
9 information, applications, and records; and any work-related
10 information including but not limited to an employee's salary
11 level and information contained in an employee's personnel
12 file. The bill provides that "personal information" does not
13 include information that is lawfully obtained from publicly
14 available sources, or from federal, state, or local government
15 records lawfully made available to the general public.

16 The bill references a definition of "governmental agency"
17 contained in Code section 28J.1 as meaning a department,
18 division, or other unit of state government of Iowa or any
19 other state, city, county, township, or other governmental
20 subdivision, or any other public corporation or agency created
21 under the laws of Iowa, any other state, the United States, or
22 any department or agency thereof, or any agency, commission,
23 or authority established pursuant to an interstate compact or
24 agreement or combination thereof.

25 The bill provides that a person or entity shall not
26 voluntarily or intentionally disclose an individual's
27 personal information without informing the individual of the
28 intent to disclose the personal information, identifying the
29 intended recipient of the information, indicating how the
30 disclosed information is intended to be used, and obtaining
31 the individual's written consent to the disclosure. The
32 bill provides that this restriction does not apply to
33 elective participation in the Iowa health information network
34 established pursuant to Code section 135.155A, to disclosure of
35 personal information which is subject to any provision of state

1 or federal law which either supersedes or is more restrictive
2 than the provisions of the bill, to the breach of security
3 provisions of Code chapter 715C, or to disclosure in response
4 to a subpoena or court order issued pursuant to a civil or
5 criminal investigation or proceeding.

6 The bill directs the attorney general to adopt
7 administrative rules to administer and interpret the bill's
8 provisions.

9 The bill provides that in the event of a disclosure of
10 personal information in violation of the bill's provisions, a
11 person or entity shall notify the individual whose personal
12 information was disclosed that the disclosure has occurred by
13 certified mail return receipt requested within 10 business
14 days of the date the disclosure occurred. The notification
15 shall identify, to the extent able to be determined, the person
16 to whom the disclosure was made. The person or entity shall
17 be responsible for full restitution to an individual whose
18 personal information was disclosed for any losses incurred
19 resulting from the disclosure. Further, a violation of the
20 bill's provisions is punishable by a civil penalty not to
21 exceed \$5,000.

22 Finally, the bill directs the attorney general, in
23 conjunction with the department of public health, the
24 department of human services, and the office of the chief
25 information officer, to determine whether and to what extent
26 personal information disclosure requirements and safeguards
27 developed by the centers for Medicare and Medicaid services of
28 the United States department of health and human services in
29 connection with the healthcare.gov internet site afford the
30 citizens of this state adequate personal information safeguards
31 and protection and reflect best practices for data security.
32 Based on this determination, the bill requires the attorney
33 general to develop recommendations containing suggestions for
34 utilizing the internet site and areas of concern identified
35 concerning personal information data security by October 1,

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1 2014.